



## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Representative and Address Provisions

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0035 (Representative and Address Provisions). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

**DATES:** To ensure consideration, comments regarding this information collection must be received on or before **[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0035 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Parikha Mehta, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-3248; or by email to Parikha.Mehta@uspto.gov. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This information collection includes the information necessary to submit a request to grant or revoke power of attorney for an application, patent, or reexamination proceeding, and for a registered practitioner to withdraw as attorney or agent of record. This also includes the information necessary to change the correspondence address for an application, patent, or reexamination proceeding, to request a Customer Number and manage the correspondence address and list of practitioners associated with a Customer Number, and to designate or change the correspondence address or fee address for one or more patents or applications by using a Customer Number.

Under 35 U.S.C. 2 and 37 CFR 1.31-1.32, power of attorney may be granted to one or more joint inventors or a person who is registered to practice before the USPTO to act in an application or a patent. In particular, for an application filed before September 16, 2012, or for a patent which issued from an application filed before September 16, 2012, power of attorney may be granted by the applicant for patent (as set forth in 37 CFR 1.41(b) (pre-AIA)) or the assignee of the entire interest of the applicant. For an application filed on or after September 16, 2012, or for a patent which issued from an application filed on or after September 16, 2012, power of attorney may be granted by the

applicant for patent (as set forth in 37 CFR 1.42) or the patent owner. The USPTO provides two different versions of the forms for establishing power of attorney based upon whether the application filing date is before or after September 16, 2012, to thereby reduce applicants' burden in having to determine the appropriate power of attorney requirements for a given application.

37 CFR 1.36 provides for the revocation of a power of attorney at any stage in the proceedings of a case. 37 CFR 1.36 also provides a path by which a registered patent attorney or patent agent who has been given a power of attorney may withdraw as attorney or agent of record.

The USPTO's Customer Number practice permits applicants, patent owners, assignees, and practitioners of record, or the representatives of record for a number of applications or patents, to change the correspondence address of a patent application or patent with one change request instead of filing separate requests for each patent or application. Any changes to the address or practitioner information associated with a Customer Number will be applied to all patents and applications associated with said Customer Number.

The Customer Number practice is optional, in that changes of correspondence address or power of attorney may be filed separately for each patent or application without using a Customer Number. However, a Customer Number associated with the correspondence address for a patent application is required in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO website. The use of a Customer Number is also required in order to grant power of attorney to more than ten practitioners or to establish a separate "fee address" for maintenance fee purposes that is different from the correspondence address for a patent or application.

## **II. Method of Collection**

Items in this information collection may be submitted by mail, facsimile, hand delivery, or online electronic submissions.

### **III. Data**

*OMB Control Number:* 0651-0035.

*Form Number(s):* (AIA= American Invents; SB = Specimen Book).

- PTO/AIA/80; PTO/SB/80 (Power of Attorney to Prosecute Applications Before the USPTO)
- PTO/AIA/81 (Power of Attorney to one or More of the Joint Inventors and Change of Correspondence Address)
- PTO/SB/81 (Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/AIA/81A; PTO/SB/81A (Patent – Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/AIA/81B (Reexamination or Supplemental Examination - Patent Owner Power of Attorney or Revocation of Power of Attorney With a New Power of Attorney and Change of Correspondence Address for Reexamination or Supplemental Examination and Patent)
- PTO/SB/81B (Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/SB/81C (Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/AIA/82A; PTO/AIA/82B; PTO/AIA/82C (Transmittal for Power of Attorney To One Or More Registered Practitioners/Power Of Attorney By Applicant)
- PTO/AIA/83; PTO/SB/83 (Request for Withdrawal as Attorney or Agent and Change of Correspondence Address)
- PTO/SB/124 (Request for Customer Number Data Change)
- PTO/SB/125 (Request for Customer Number)
- PTO-2248 (Request to Update a PCT Application with a Customer Number)

*Type of Review:* Revision of a currently approved information collection.

*Affected Public:* Private sector; individuals or households.

*Estimated Number of Respondents:* 184,743 respondents per year.

*Estimated Number of Responses:* 226,573 responses per year.

*Estimated Time Per Response:* The USPTO estimates that the response time for activities related to Representative Address Provisions will take the public between 0.20 hours (12 minutes) to 1.5 hours (90 minutes) to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 111,104 hours.

*Estimated Total Annual Respondent Hourly Cost Burden:* \$16,561,175.

**Table 1: Total Hourly Burden For Private Sector Respondents**

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hour)	Estimated Annual Burden (hour/year)	Rate <sup>1</sup> (\$/hour)	Estimated Annual Respondent Cost Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Power of Attorney to Prosecute Applications Before the USPTO <b>PTO/AIA/80</b> <b>PTO/SB/80</b>	2,425	2,910	0.5 (30 minutes)	1,455	\$145	\$210,975
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence <b>PTO/AIA/82A</b> <b>PTO/AIA/82B</b> <b>PTO/AIA/82C</b>	165,870	204,670	0.5 (30 minutes)	102,335	\$145	\$14,838,575
3	Patent – Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address <b>PTO/AIA/81</b> <b>PTO/SB/81</b> <b>PTO/AIA/81A</b> <b>PTO/SB/81A</b>	165	194	0.5 (30 minutes)	97	\$145	\$14,065
4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and	29	29	0.5 (30 minutes)	15	\$145	\$2,175

<sup>1</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour. The hourly rate for paraprofessional/paralegals is estimated at \$145 from data published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA); <https://www.nala.org/paralegals/research-and-survey-findings>.

	Change of Correspondence Address <b>PTO/AIA/81B</b> <b>PTO/SB/81B</b>						
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address <b>PTO/SB/81C</b>	24	24	0.5 (30 minutes)	12	\$145	\$1,740
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address <b>PTO/AIA/83</b> <b>PTO/SB/83</b>	2,134	3,395	0.5 (30 minutes)	1,698	\$400	\$679,200
7	Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	9	9	1 (60 minutes)	9	\$400	\$3,600
8	Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	9	9	1 (60 minutes)	9	\$400	\$3,600
9	Request for Customer Number Data Change <b>PTO/SB/124</b>	1,067	1,067	0.2 (12 minutes)	213	\$145	\$30,885
10	Request for Customer Number <b>PTO/SB/125</b>	6,111	6,111	0.2 (12 minutes)	1,222	\$145	\$177,190
11	Customer Number Upload Spreadsheet	291	291	1.5 (90 minutes)	437	\$145	\$63,365
12	Request to Update a PCT Application with a Customer Number <b>PTO-2248</b>	1,067	1,067	0.25 (15 minutes)	267	\$145	\$38,715
	<b>Totals</b>	<b>179,201</b>	<b>219,776</b>		<b>107,769</b>		<b>\$16,064,085</b>

**Table 2: Total Hourly Burden For Individuals or Households Respondents**

Item No.	Item	Estimated Annual Respondents	Estimated Annual Responses (year)	Estimated Time for Response (hour)	Estimated Annual Burden (hour/year)	Rate <sup>2</sup> (\$/hour)	Estimated Annual Respondent Cost Burden
			(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)
1	Power of Attorney to Prosecute Applications Before the USPTO <b>PTO/AIA/80</b> <b>PTO/SB/80</b>	75	90	0.5 (30 minutes)	45	\$145	\$6,525
2	Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence <b>PTO/AIA/82A</b> <b>PTO/AIA/82B</b> <b>PTO/AIA/82C</b>	5,130	6,330	0.5 (30 minutes)	3,165	\$145	\$458,925
3	Patent – Power of Attorney or Revocation of Power of Attorney with a New Power	5	6	0.5 (30 minutes)	3	\$145	\$435

<sup>2</sup> 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/ journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour. The hourly rate for paraprofessional/paralegals is estimated at \$145 from data published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA); <https://www.nala.org/paralegals/research-and-survey-findings>.

	of Attorney and Change of Correspondence Address <b>PTO/AIA/81</b> <b>PTO/SB/81</b> <b>PTO/AIA/81A</b> <b>PTO/SB/81A</b>						
4	Reexamination – Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address <b>PTO/AIA/81B</b> <b>PTO/SB/81B</b>	1	1	0.5 (30 minutes)	1	\$145	\$145
5	Reexamination – Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address <b>PTO/SB/81C</b>	1	1	0.5 (30 minutes)	1	\$145	\$145
6	Request for Withdrawal as Attorney or Agent and Change of Correspondence Address <b>PTO/AIA/83</b> <b>PTO/SB/83</b>	66	105	0.5 (30 minutes)	53	\$400	\$21,200
9	Request for Customer Number Data Change <b>PTO/SB/124</b>	33	33	0.2 (12 minutes)	7	\$145	\$1,015
10	Request for Customer Number <b>PTO/SB/125</b>	189	189	0.2 (12 minutes)	38	\$145	\$5,510
11	Customer Number Upload Spreadsheet	9	9	1.5 (90 minutes)	14	\$145	\$2,030
12	Request to Update a PCT Application with a Customer Number <b>PTO-2248</b>	33	33	0.25 (15 minutes)	8	\$145	\$1,160
	<b>Totals</b>	<b>5,542</b>	<b>6,797</b>		<b>3,335</b>		<b>\$497,090</b>

The USPTO published a 60-day notice in the Federal Register in support of the renewal of this collection on January 15, 2021. In response to public feedback received regarding the January 2021 60-day notice, and after further consideration of the estimated times for response for items 1-6, the USPTO has increased the estimated times for response for items 1-5 from 3 minutes to 30 minutes and the estimated time for response for item 6 from 12 minutes to 30 minutes.

*Estimated Total Annual Non-hour Respondent Cost Burden:* \$26,686. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees and postage is \$26,686.

### Filing Fees

The two petitions in this information collection have associated filing fees under 37 CFR 1.17(f), resulting in \$8,000 in filing fees.

Item No.	Item	Estimated Annual Responses (a)	Filing Fee (\$) (b)	Total Non-hour Cost Burden (a) x (b) = (c)
7	Petitions Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants	10	\$400.00	\$4,000
8	Petitions to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants	10	\$400.00	\$4,000
	<b>Total</b>			<b>\$8,000</b>

### Postage Costs

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 226,573 items will be submitted in the mail resulting in 2,265 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$8.25. Therefore, the USPTO estimates the total mailing costs for this information collection at \$18,686.

*Respondent's Obligation:* Required to obtain or retain benefits.

### **IV. Request for Comments**

The USPTO is soliciting public comments to:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected; and
- (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

**Kimberly Hardy,**

*Information Collections Officer,*

*Office of the Chief Administrative Officer,*

*United States Patent and Trademark Office.*

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